

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
WICHITA FALLS DIVISION

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FRANCISCAN ALLIANCE, INC.;  
SPECIALTY PHYSICIANS OF  
ILLINOIS, LLC.;  
CHRISTIAN MEDICAL &  
DENTAL ASSOCIATIONS;

- and -

STATE OF TEXAS;  
STATE OF WISCONSIN;  
STATE OF NEBRASKA;  
COMMONWEALTH OF  
KENTUCKY, by and through  
Governor Matthew G. Bevin;  
STATE OF KANSAS; STATE OF  
LOUISIANA; STATE OF  
ARIZONA; and STATE OF  
MISSISSIPPI, by and through  
Governor Phil Bryant,

*Plaintiffs,*

v.

ALEX M. AZAR, II, Secretary  
of the United States Department of  
Health and Human Services; and  
UNITED STATES DEPARTMENT OF  
HEALTH AND HUMAN SERVICES,

*Defendants.*

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**PRIVATE PLAINTIFFS'  
RENEWED MOTION FOR  
PARTIAL SUMMARY  
JUDGMENT**

Civ. Action No. 7:16-cv-00108-O

Plaintiffs Christian Medical & Dental Associations, Franciscan Alliance, Inc., and Specialty Physicians of Illinois, LLC (“Private Plaintiffs”), by and through their counsel, and pursuant to Federal Rule of Civil Procedure 56(a) and LR 56, respectfully move the Court for summary judgment on Counts I, II, XI, XII, and XIII of their First Amended Complaint (ECF No. 21).

This lawsuit challenges a 2016 Rule issued by the Department of Health and Human Services (“HHS”) entitled Nondiscrimination in Health Programs & Activities, 81 Fed. Reg. 31375, 31392, 31384 (May 18, 2016) (codified at 45 C.F.R. pt. 92). Private Plaintiffs are entitled to summary judgment as a matter of law because HHS’s attempt to redefine “sex” violates the Administrative Procedure Act, and its attempt to force doctors to violate their religious beliefs violates the Religious Freedom Restoration Act and Free Exercise Clause of the First Amendment. At the preliminary-injunction stage, this Court already agreed that these aspects of the Rule were “contrary to law and exceed[ed] statutory authority,” ECF No. 62 at 46, and the Defendants’ position has only become weaker since this Court entered its preliminary injunction. There are no genuine issues of material fact and Plaintiffs are entitled to judgment as a matter of law.

Plaintiffs specifically request the following relief against the Defendants, their officers, agents, employees, and attorneys:

1. A declaratory judgment that the Rule is invalid under the Administrative Procedure Act;
2. A declaratory judgment that the Rule violates the Religious Freedom Restoration Act;
3. A permanent injunction prohibiting Defendants from enforcing the Rule; and
4. An order vacating and remanding the unlawful portions of the Rule.

A brief in support of this Motion satisfying the requirements of Local Rule 56.3,

an Appendix—consisting of the same evidence submitted to the Court at the preliminary injunction stage—and a proposed order are filed contemporaneously with this Motion.

Wherefore, Private Plaintiffs respectfully request that summary judgment on Counts I, II, XI, XII, and XIII of Plaintiffs' First Amended Complaint be entered in their favor and against Defendants.

Respectfully submitted this the 4th day of February, 2019.

/s/ Luke W. Goodrich  
Luke W. Goodrich  
Bar No. 977736DC  
Eric C. Rassbach  
Mark L. Rienzi  
Stephanie H. Barclay  
The Becket Fund for Religious Liberty  
1200 New Hampshire Ave. NW  
Suite 700  
Washington, DC 20036  
(202) 955-0095  
lgoodrich@becketlaw.org

*Counsel for Plaintiffs Christian Medical  
& Dental Associations, Franciscan  
Alliance, Inc., Specialty Physicians of  
Illinois, LLC*

**CERTIFICATE OF SERVICE**

I hereby certify that on February 4, 2019, the foregoing Motion was served on all parties via ECF.

*/s/ Luke W. Goodrich*  
Luke W. Goodrich